

Message Text

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PAGE 01 GENEVA 07284 032148Z

67

ACTION EUR-12

INFO OCT-01 IO-10 ISO-00 PM-03 L-02 H-01 NSC-05 INRE-00

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FM USMISSION GENEVA

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INFO AMEMBASSY MOSCOW

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C O N F I D E N T I A L GENEVA 7284

C O R R E C T E D COPY (PARA 4. A.)

E.O. 11652: N/A

TAGS: CSCE, PFOR, XG

SUBJECT: CSCE: HUMAN CONTACTS - MARRIAGE TEXT

REFS: A. MOSCOW 17999

B. GENEVA 7201

C. STATE 264709

D. GENEVA 7198

1. THIS TELEGRAM REQUESTS GUIDANCE ON DRAFT MARRIAGE TEXT.

2. DELEGATION IS GRATEFUL FOR EMBASSY MOSCOW'S DETAILED ACCOUNT OF THE VARIOUS OBSTACLES PUT UP BY THE SOVIET GOVT AGAINST FOREIGNERS AND SOVIET CITIZENS WHO WISH TO MARRY. WHILE WE WERE, OF COURSE, FAMILIAR WITH MANY OF THE HURDLES ERECTED BY THE SOVIET BUREAUCRACY THROUGH PREVIOUS EMBASSY REPORTING, THE COMPILATION CONTAINED IN REFTEL (A) PUTS IT ALL IN USEFUL CONTEXT.

3. EMBASSY AND DEPT CORRECTLY SURMISE THAT IT WOULD BE
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PAGE 02 GENEVA 07284 032148Z

SERIOUSLY DISRUPTIVE TO INTRODUCE STRONG, NEW LANGUAGE AND

IDEAS AT THIS DATE. PRESENT VERSION OF MARRIAGE TEXT IS A DISTILLATION OF THREE ORIGINAL DOCUMENTS WHICH HAVE BEEN THE SUBJECT OF INFORMAL DISCUSSION FOR SOME TIME. ALTHOUGH SOVIETS HAVE STUBBORNLY RESISTED WESTERN PROPOSALS, WE DO HOPE THAT THE EVENTUALLY AGREED MARRIAGE TEXT WILL CONTAIN SOME PROVISIONS WHICH CAN BE CITED WHEN DIFFICULTIES ARISE IN FUTURE MARRIAGE CASES. IN THIS RESPECT SOVIET PROPOSAL FOR REFERENCE TO THE PROVISIONS OF THE FAMILY REUNIFICATION TEXT (REFTEL B) MAY BE marginally HELPFUL.

4. WITH REGARD TO SPECIFIC POINTS RAISED BY DEPARTMENT AND EMBASSY MOSCOW, WE HAVE THE FOLLOWING COMMENTS:

A. POSSIBILITY OF INTRODUCING CHANGES -- ALTHOUGH NORWEGIANS AND SOVIETS RENEWED THEIR BILATERAL CONSULTATIONS ON MARRIAGE PAPER ON NOV 28, NATO CAUCUS HAD SPECIFIED THAT REVISED WESTERN TEXT (GENEVA 7198) SHOULD NOT YET BE ADVANCED TO SOVIETS, BUT SHOULD ONLY SERVE AS A GUIDE FOR NORWEGIANS IN THEIR DISCUSSIONS. WHILE WE WOULD HESITATE, THEREFORE, TO INTRODUCE MAJOR NEW IDEAS, IT REMAINS POSSIBLE

TO INTRODUCE MINOR TEXTUAL AMENDMENTS. OF COURSE, AS NEGOTIATIONS ADVANCE, EVEN THIS BECOMES MORE AND MORE DIFFICULT, AS SPECIFIC PHRASEOLOGY GAINS MORE WIDESPREAD INFORMAL ACCEPTANCE.

B. WHO IS COVERED -- THIS POINT MAY BE DIFFICULT TO REOPEN AT THIS LATE DATE. EARLY WESTERN TEXTS CLEARLY IDENTIFIED PERSONS COVERED AS BEING FROM "OWN" AND "OTHER" PARTICIPATING STATES, BUT SOVIETS WERE UNYIELDING IN THEIR INSISTENCE THAT ANY EXPLICIT MENTION OF A STATE'S RELATIONS WITH ITS OWN CITIZENS WOULD CONSTITUTE INTERFERENCE IN INTERNAL AFFAIRS. PRESENT AMBIGUOUS LANGUAGE IS CONSIDERED BY WESTERN DELS AS BEST ATTAINABLE COMPROMISE, AND FIRST SENTENCE OF TEXT IS NOW VIRTUALLY ACCEPTED BY ALL DELEGATIONS.

C. "COSTS AND SPEED" -- FOR REASONS CITED IN REFTEL (C) WE PLAN TO URGE ADDITION OF "AND PROCEDURES," AND DELETION OF QUALIFYING REFERENCE TO "COSTS AND SPEED" IN FINAL SENTENCE OF TEXT. IF ALLIES AGREE, SENTENCE WOULD THEN READ: "THE DOCUMENTS AND PROCEDURES REQUIRED FOR THE ABOVE PURPOSES, INCLUDING THOSE REQUIRED FOR THE MARRIAGE, WILL ALSO BE DEALT

CONFIDENTIAL

PAGE 03 GENEVA 07284 032148Z

WITH IN ACCORDANCE WITH THE PROVISIONS AGREED FOR FAMILY REUNIFICATION."

D. PERMISSION TO MARRY -- WE OF COURSE CONCUR WITH EMBASSY MOSCOW'S ASSESSMENT THAT PRESENT MARRIAGE TEXT DOES NOT GET AT QUESTION OF PERMISSION TO MARRY IN A VERY SPECIFIC WAY. HERE AGAIN, HOWEVER, SOVIETS HAVE ARGUED STRONGLY THAT QUESTION OF PRINCIPLE IS INVOLVED, AND THAT WHILE EXIT AND ENTRY OF FOREIGNERS OR FAMILIES JOINING FOREIGNERS MIGHT

CONCEIVABLY BE APPROPRIATE FOR INTERNATIONAL DISCUSSION, MARRIAGE REGULATIONS ARE INTERNAL NATIONAL COMPETENCE AND ANY ATTEMPT TO REGULATE THEM IN AN INTERNATIONAL AGREEMENT WOULD CONSTITUTE INTERFERENCE IN INTERNAL AFFAIRS. WESTERN DELS HERE HAVE RELUCTANTLY ACCEPTED LOGIC OF THIS POSITION, AND HAVE SOUGHT AMBIGUOUS LANGUAGE WHICH COULD STILL BE CONSTRUED AS ENCOURAGING MORE LIBERAL PRACTICES IN THIS FIELD (E.G. AS EXPLAINED IN PARA 2 ABOVE). FOR THESE REASONS WE DO NOT REPEAT NOT BELIEVE AN ATTEMPT TO INTRODUCE LANGUAGE AS PROPOSED IN PARA 5 OF MOSCOW 17999 WOULD GET VERY FAR, AND IT WOULD CERTAINLY ANTAGONIZE THE SOVIETS, AS WELL AS OUR OWN ALLIES WHO ARE NOW PREPARED TO COMPROMISE ON THIS POINT. NEVERTHELESS, IT MIGHT BE POSSIBLE TO STRENGTHEN LANGUAGE ON THIS POINT IN NEW WESTERN DRAFT (GENEVA 7198) THROUGH PROPOSAL OF LESS DRASTIC LANGUAGE CHANGES THAN THOSE SUGGESTED REF (A). FOR EXAMPLE, WE MIGHT PROPOSE CHANGING SECOND SENTENCE OF THIS TEXT TO READ AS FOLLOWS: QUOTE. IN DEALING WITH REQUESTS FROM COUPLES FROM DIFFERENT PARTICIPATING STATES WHO PLAN TO MARRY, AND, ONCE MARRIED, WHO WISH TO OBTAIN THE NECESSARY DOCUMENTS TO ENABLE THEM AND THEIR MINOR CHILDREN TO TRANSFER THEIR DOMICILE TO A STATE IN WHICH EITHER ONE IS NORMALLY A RESIDENT, THEY WILL APPLY THE PROVISIONS AGREED FOR FAMILY REUNIFICATION. END QUOTE.

5. INSERTION OF WORDS "WHO WISH TO MARRY AND" WOULD HAVE EFFECT OF TRANSFERRING TO APPLICATIONS TO MARRY THE OBLIGATIONS PARTICIPANT STATES UNDERTAKE WITH RESPECT TO FAMILY REUNIFICATION APPLICATIONS; E.G. RECONSIDERATIONS OF APPLICATIONS THAT HAVE BEEN DENIED; NO MODIFICATION OF RIGHTS AND OBLIGATIONS OF APPLICANT; SYMPATHETIC AND EXPEDITIOUS HANDLING OF MARRIAGE APPLICATIONS.
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PAGE 04 GENEVA 07284 032148Z

6. SOVIETS WOULD, OF COURSE, STRONGLY RESIST THIS CHANGE, AT LEAST INITIALLY, AND NOTE THAT WE ARE EFFECTIVELY REINTRODUCING ISSUE OF PERMISSION TO MARRY. ULTIMATELY THEY MIGHT CONCEDE THE POINT IF THE US PRESSES IT FIRMLY. WE HAVE INFORMALLY BROACHED ISSUE WITH ALLIES. OTHER NATO DELS COULD AGREE TO CHANGE, IF US AGREES TO TAKE LEAD IN FLOATING THIS LANGUAGE WITH SOVIETS. DEPT MAY WISH AUTHORIZE US TO SUGGEST FORMALLY THIS CHANGE TO ALLIES ON UNDERSTANDING THAT US DEL WOULD THEN BE EXPECTED TO TAKE IT UP WITH SOVIETS. WE COULD RE-EVALUATE OUR POSITION, IF APPROPRIATE, IN LIGHT OF SOVIET REACTION.DALE

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